

**Sim, Lowman, Ashton & McKay LLP**  
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**Sim & McBurney**  
*Patent & Trade Mark Agents*

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OCT 18 2006

**DATE:** October 18, 2006

**Application No:** 10/566,082

**Our Ref:** 7865-276 MIS:jb

<b>TO:</b>	<b>FAX #</b>	<b>PHONE #</b>
US Patent and Trademarks Office Mail Stop Petition	(571) 273-8300	

Total Number of Pages (Including This Page): 23

**FROM:** Michael I. Stewart / (416) 849-8400

**COMMENTS:**

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T-357 P.002/023 F-876

OCT 18 2006

PTO/SB/21 (09-04)

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FORM

(to be used for all correspondence after initial filing)

		Application Number	10/566,082
		Filing Date	
		First Named Inventor	Brent E. Green
		Art Unit	
		Examiner Name	
Total Number of Pages in This Submission	22	Attorney Docket Number	7885-276 Missp

## ENCLOSURES (Check all that apply)

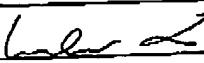
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC	
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences	
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)	
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information	
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter	
<input checked="" type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):	
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Declaration with Exhibits I to III	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund		
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____		
<input checked="" type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Landscape Table on CD		
<input type="checkbox"/> <small>Reply to Missing Parts under 37 CFR 1.52 or 1.53</small>			
Remarks			

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Sim & McBurney		
Signature			
Printed name	Michael I. Stewart		
Date	October 18, 2006	Reg. No.	24,973

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature		Date	October 18, 2006
Typed or printed name	Michael I. Stewart		

This collection of information is required by 37 CFR 1.6. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

OCT 18 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl'n. No. : 10/566,082  
Applicant : Brent E. Green  
Title : PROCESS FOR PREPARATION OF FLAX PROTEIN ISOLATE  
Docket No. : 7865-276 MIS/jb  
Customer No.: 24223  
Date : October 18, 2006

BY FACSIMILE (571) 273-8300

Mail Stop Petition  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
U.S.A.

PETITION TO ACCEPT APPLICATION UNDER 37 CFR 1.47(a)

Petition is hereby made under the provisions of 37 CFR 1.147(a) to proceed with this application in the absence of a Declaration and Power of Attorney signed by inventor Radka Milanova.

Submitted herewith in support of this Petition are:

1. Declaration and Power of Attorney document signed by Brent E. Green and James Logie.

2. Declaration and Power of Attorney signed by Brent E. Green, and James Logie on behalf of Radka Milanova.

3. Copy of Notification of Missing Requirements. Petition is hereby made under the provisions of 37 CFR 1.136(a) for an extension of four months of the period for submission of a response to the Notification of Missing Requirements.

4. Authorization to charge the Extension Fee, Surcharge Fee and Petition Fee to our deposit account, and

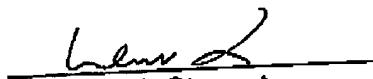
Application No.: 10/586,082  
Petition dated: October 18, 2006

2

5. Declaration of Michael I. Stewart with respect to the facts upon which this Petition is based.

Having regard to the contents hereof, it is submitted that the Petition should be granted.

Respectfully submitted,

  
Michael I. Stewart  
Reg. No. 24,973

Toronto, Ontario, Canada  
Phone No.: (416) 849-8400  
FAX No.: (416) 595-1163

PTO/SB/01 (10-05)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**DECLARATION FOR UTILITY OR  
DESIGN  
PATENT APPLICATION  
(37 CFR 1.63)**

Declaration Submitted With Initial Filing

OR

Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number

7865-276 MIS:jb

First Named Inventor

Brent E. Green

**COMPLETE IF KNOWN**

Application Number

Filing Date

Art Unit

Examiner Name

I hereby declare that:

Each inventor's residence, mailing address, and citizenship are as stated below next to their name.

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**PROCESS FOR PREPARATION OF FLAX PROTEIN ISOLATE**

(Title of the Invention)

the specification of which

Is attached hereto

OR

was filed on (MM/DD/YYYY) 30/07/2004 as United States Application Number or PCT International

Application Number PCT/CA2004/001433 and was amended on (MM/DD/YYYY)   (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached? YES	Certified Copy Attached? NO
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

[Page 1 of 2]

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/01 (10-05)

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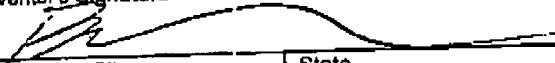
## DECLARATION — Utility or Design Patent Application

Direct all correspondence to:	<input type="checkbox"/> The address associated with Customer Number: <span style="border: 1px solid black; padding: 2px;"> </span>	OR	<input checked="" type="checkbox"/> Correspondence address below
Name Sim & McBurney			
Address 6th Floor, 330 University Avenue			
City Toronto	State Ontario	ZIP MSG 1R7	
Country Canada	Telephone (416) 595-1155	Email mailsim@sim-mcburney.com	

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

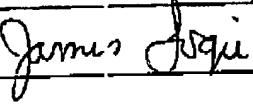
NAME OF SOLE OR FIRST INVENTOR:		<input type="checkbox"/> A petition has been filed for this unsigned Inventor	
Given Name (first and middle [if any]) Brent E.		Family Name or Surname Green	
Inventor's Signature 			Date March 3/06
Residence: City Winnipeg	State Manitoba	Country Canada	Citizenship Canadian
Mailing Address 588 Balfour Avenue Box 603			
City Winnipeg	State Manitoba	Zip R0C 3E0 R0L 1E4	Country Canada
<input checked="" type="checkbox"/> Additional inventors or a legal representative are being named on the		supplemental sheet(s) PTO/SB/02A or 02LR attached hereto.	

(Page 2 of 2)

PTO/SB/02A (09-04)

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DECLARATION		ADDITIONAL INVENTOR(S) Supplemental Sheet	
		Page 3 of 3	
<b>Name of Additional Joint Inventor, if any:</b> <input checked="" type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name (first and middle (if any)) Radka		Family Name or Surname Milanova	
Inventor's Signature		Date	
Vancouver Residence: City 605-1749 Robson Street		British Columbia State Canada	Canadian Citizenship
<b>Mailing Address</b> Vancouver City		British Columbia State V6G 1E1 Zip	Canada Country
<b>Name of Additional Joint Inventor, if any:</b> <input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name (first and middle (if any)) James		Family Name or Surname Logie	
Inventor's Signature 		Date <i>March 13/06</i>	
Winnipeg Residence: City c/o Burcon Nutrascience (MB) Corp., 1389 Waller Avenue		Manitoba State R3T 1R9 Zip	Canada Country Canadian Citizenship
<b>Mailing Address</b> Winnipeg City		Manitoba State R3T 1R9 Zip	Canada Country
<b>Name of Additional Joint Inventor, if any:</b> <input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name (first and middle (if any))		Family Name or Surname	
Inventor's Signature		Date	
Residence: City		State Country	Citizenship
<b>Mailing Address</b>		State Zip	Country

This collection of information is required by 35 U.S.C. 116 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Sep-29-06 01:32pm From-SIMBAS

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OCT 18 2006

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DECLARATION FOR UTILITY OR  
DESIGN  
PATENT APPLICATION  
(37 CFR 1.63)

Declaration  
Submitted  
With Initial  
Filing

OR

Declaration  
Submitted after Initial  
Filing (surcharge  
(37 CFR 1.16 (e))  
required)

Attorney Docket  
Number

7885-278 MIS:D

First Named Inventor

Brent E. Green

COMPLETE IF KNOWN

Application Number

10/588,082

Filing Date

Art Unit

Examiner Name

I hereby declare that:

Each Inventor's residence, mailing address, and citizenship are as stated below next to their name.

I believe the Inventor(s) named below to be the original and first Inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

PROCESS FOR PREPARATION OF FLAX PROTEIN ISOLATE

(Title of the Invention)

the specification of which

is attached hereto

OR

was filed on (MM/DD/YYYY)

30/07/2004

as United States Application Number or PCT International

(if applicable).

Application Number

PCT/CA2004/001433

and was amended on (MM/DD/YYYY)

(if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT International filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventors or plant breeder's rights certificate(s), or 385(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventors or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached? YES	NO
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/028 attached hereto.

(Page 1 of 2)  
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**DECLARATION — Utility or Design Patent Application**

Direct all correspondence to:	<input type="checkbox"/>	The address associated with Customer Number:	<input type="checkbox"/>	OR	<input checked="" type="checkbox"/>	Correspondence address below
Name						
Sim & McBurney						
Address						
6th Floor, 330 University Avenue						
City			State	ZIP		
Toronto			Ontario	M5G 1R7		
Country			Telephone	Email		
Canada			(416) 595-1155	mellsim@sim-mcburney.com		
<b>WARNING:</b> Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application); or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.						
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon.						
NAME OF SOLE OR FIRST INVENTOR:			<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name (first and middle if any)			Family Name or Surname Green (on behalf of Radka Milanova)			
Brent E.			Date <i>OC 14/06</i>			
Inventor's Signature <i>[Signature]</i>						
Residence: City Winnipeg	State Manitoba	Country Canada	Citizenship Canadian			
Mailing Address Box 603						
City Warren	State Manitoba	Zip R0C 3E0	Country Canada			
<input checked="" type="checkbox"/> Additional inventors or a legal representative are being named on the <i>[Signature]</i> <small>Supplemental sheet/s) PTO/SB/02A or 02LR attached hereto.</small>						

[Page 2 of 2]

PTO/SB/02A (09-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**ADDITIONAL INVENTOR(S)**

Supplemental Sheet

Page 3 of 3

**DECLARATION**

Name of Additional Joint Inventor, if any:	<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name (first and middle (if any))	Family Name or Surname			
Roska	Milanova			
Inventor's Signature				Date
Vancouver Residence: City 605-1749 Robson Street	British Columbia State	Canada Country	Canadian Citizenship	
Mailing Address	British Columbia State	Veg 1E1 Zip	Canada Country	
Vancouver City	British Columbia State	Veg 1E1 Zip	Canada Country	
Name of Additional Joint Inventor, if any:	<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name (first and middle (if any))	Family Name or Surname			
James	Logie (on behalf of Roska Milanova)			
Inventor's Signature <i>James Logie</i>				Date Oct. 4/06
Winnipeg Residence: City 610 Bureau Nutrasolance (IV-8) Corp., 1389 Waller Avenue	Manitoba State	Canada Country	Canadian Citizenship	
Mailing Address	Manitoba State	R3T 1R9 Zip	Canada Country	
Winnipeg City	Manitoba State	R3T 1R9 Zip	Canada Country	
Name of Additional Joint Inventor, if any:	<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name (first and middle (if any))	Family Name or Surname			
Inventor's Signature				Date
Residence: City	State	Country	Citizenship	
Mailing Address	State	Zip	Country	
City	State	Zip	Country	

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.83. The information is required to obtain or retain a benefit by the public which is in the application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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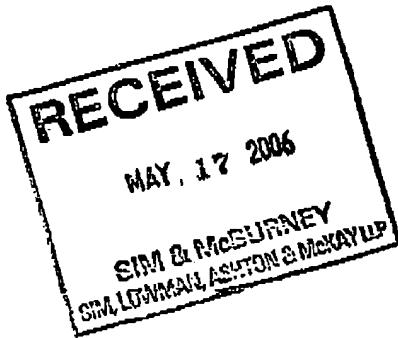


## UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/566,082	Brent E. Green	7865276MISjb

24223  
SIM & MCBURNEY  
330 UNIVERSITY AVENUE  
6TH FLOOR  
TORONTO, ON M5G 1R7  
CANADA



Date Mailed: 05/05/2006

INTERNATIONAL APPLICATION NO.	
PCT/CA04/01433	
IA. FILING DATE	PRIORITY DATE
07/30/2004	08/01/2003

CONFIRMATION NO. 5501  
371 FORMALITIES LETTER  
  
\*OC000000018690716\*

## NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 01/27/2006
- Copy of the International Search Report filed on 01/27/2006
- Oath or Declaration filed on 01/27/2006
- U.S. Basic National Fees filed on 01/27/2006
- Priority Documents filed on 01/27/2006
- Specification filed on 01/27/2006
- Claims filed on 01/27/2006
- Abstracts filed on 01/27/2006
- Drawings filed on 01/27/2006

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
  - is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

## SUMMARY OF FEES DUE:

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Surcharge.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice MUST be returned with the response.*

VONDA M WALLACE

Telephone: (703) 308-9140 EXT 225

**PART 1 - ATTORNEY/APPLICANT COPY**

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/566,082	PCT/CA04/01433	7865276MISjb

FORM PCT/DO/EO/905 (371 Formalities Notice)

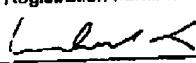
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OCT 18 2006

PTO/SB/22 (12-04)

Approved for use through 07/31/2008. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1996, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)</b>		Docket Number (Optional)
FY 2005 <i>(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)</i>		7865-276 MIS
Application Number 10/556 082 For PROCES FOR PREPARATION OF FLAX PROTEIN ISOLATE.		Filed
Art Unit	Examiner	
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.		
The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):		
	Fee	Small Entity Fee
<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$450	\$225
<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1020	\$510
<input checked="" type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1590	\$795
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2160	\$1080
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. <input type="checkbox"/> A check in the amount of the fee is enclosed. <input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached. <input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account. <input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 192253 I have enclosed a duplicate copy of this sheet. <b>WARNING: Information on this form may become public. Credit card information should not be included on this form.</b> Provide credit card information and authorization on PTO-2038.		
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96). <input checked="" type="checkbox"/> attorney or agent of record. Registration Number 24,973 <input type="checkbox"/> attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		
 Signature		October 18, 2006 Date
Michael I. Stewart Typed or printed name		(416) 849-8400 Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

Total of one (1) forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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T-357 P.014/023 F-876

OCT 18 2006

PTO/SB/17 (01-06)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Fee pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**FEE TRANSMITTAL  
For FY 2006** Applicant claims small entity status. See 37 CFR 1.27TOTAL AMOUNT OF PAYMENT (\$)  
**260.00**

## Complete if Known

Application Number  
**10/566,082**

Filing Date

First Named Inventor  
**Brent E. Green**

Examiner Name

Art Unit

Attorney Docket No.  
**7865-276 MIS**

## METHOD OF PAYMENT (check all that apply)

 Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_ Deposit Account Deposit Account Number **192253** Deposit Account Name **Sim & McBurney**

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

 Charge fee(s) indicated below  Charge fee(s) indicated below, except for the filing fee Charge any additional fee(s) or underpayments of fee(s)  Credit any overpayments under 37 CFR 1.16 and 1.17

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

## FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES	
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)
Utility	300	150	500	250	200	100
Design	200	100	100	50	130	65
Plant	200	100	300	150	160	80
Reissue	300	150	500	250	600	300
Provisional	200	100	0	0	0	0

## 2. EXCESS CLAIM FEES

## Fee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	
				Fee (\$)	Fee (\$)
- 20 or HP =	x	=		50	25
HP = highest number of total claims paid for, if greater than 20.				200	100

Indep. Claims Extra Claims Fee (\$)

Fee Paid (\$)

- 3 or HP = x =

HP = highest number of independent claims paid for, if greater than 3.

## 3. APPLICATION SIZE FEE:

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(g).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof

Fee (\$)

Fee Paid (\$)

- 100 = / 50 = (round up to a whole number) x =

Fee Paid (\$)

## 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

260.00

Other (e.g., late filing surcharge): Petition Fee (130.00), Surcharge Fee (130.00)

SUBMITTED BY	<i>Michael I. Stewart</i>	Registration No. 24,973 (Attorney/Agent)	Telephone (416) 849-8400
Signature			Date October 18, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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OCT 18 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl'n. No. : 10/566,082  
Applicant : Brent E. Green  
Title : PROCESS FOR PREPARATION OF FLAX PROTEIN ISOLATE  
Docket No. : 7865-276 MIS/jb  
Customer No.: 24223  
Date : October 18, 2006

BY FACSIMILE (571) 273-8300

Mail Stop Petition  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
U.S.A.

DECLARATION UNDER 37 CFR 1.47(a)

I, Michael I. Stewart of 1180 Carey Road, Oakville, Ontario, Canada, L6J 2E4 declare as follows:

1. I am registered to practise before the PTO under Registration No. 24,973 and am responsible for the preparation, filing and prosecution of this application.

2. This application names Brent E. Green, Rakda Milanova and James Logie as co-inventors. The beneficial owner is Burcon Nutrascience (MB) Corp. ("Burcon"). This application was filed on January 27, 2006 as a US National Phase filing under 35 USC 371 from PCT/CA2004/01433 filed July 30, 2004.

3. When I reported out the filing of this application to my contact person at Burcon's headquarters in Vancouver, I forwarded the Declaration and Power of Attorney requiring execution by inventors Green and Logie to their immediate supervisor, Martin Schweizer, at Burcon's research faculty in Winnipeg with a copy of the reporting letter. I also forwarded the Declaration and Power of Attorney requiring execution by the inventor Radka Milanova along with a copy of

Application No. 10/566,082  
Declaration dated: October 18, 2006

2

published PCT application for reference to Radka Milanova along with a copy of the reporting letter to her last known address. The last known address of Radka Milanova is:

605-1749 Robson Street  
Vancouver, British Columbia  
Canada, V6G 1E1.

I am attaching as Exhibit I, a copy of the letter addressed to my contact person.

4. I knew from dealings with respect to Application No. 10/517,987 that we had been unable to obtain the signature of Radka Milanova with regard to a Declaration and Power of Attorney on behalf of Lei Xu, a non-signing Inventor in Application No. 10/517,987. I note that Radka Milanova signed the Declaration and Power of Attorney for Application No. 10/902,102, an application bearing the same title as this application and identical in technical content to this application. A copy of that Declaration and Power of Attorney document is enclosed as Exhibition II.

5. When I received no reply from Radka Milanova, I forwarded a follow up letter with a copy of the papers and a copy of that follow-up letter is appended as Exhibit III. No response has been received from Radka Milanova, consistent with her action with respect to Application No. 10/517,987. It is submitted that the pattern of activity by Radka Milanova is tantamount to a refusal by Radka Milanova to execute the Declaration and Power of Attorney for this application.

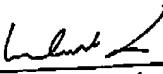
6. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and

Application No. 10/566,082  
Declaration dated: October 18, 2006

3

that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Declared at Toronto, Ontario, on 18th day of October, 2006.  
Michael I. Stewart

  
\_\_\_\_\_  
Michael I. Stewart

**EXHIBIT I (1 of 2)**

# **Sim & McBurney**

*Patent and Trade Mark Agents*

330 University Avenue  
6th floor  
Toronto, Canada  
M5G 1R7  
Telephone (416) 595-1155  
Fax (416) 595-1163

MICHAEL L STEWART  
TONI POLSON ASHTON  
JOHN H. WOODLEY  
KENNETH D. MCKAY  
TIMOTHY M. LOWMAN  
STEPHEN M. LANS  
PATRICIA A. RAE  
DAVID A. RUSTON  
LOLA A. BARTOSZEWICZ  
ANDREW R.O. JONES  
KIMBERLY A. MCMANUS

LYNDA P.S. COVELLO  
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MARCO M. CLEMENTONI  
KENNETH M. T. MURPHY  
MARLYB MONFISON  
ABIGAIL A. BROWNE  
LORRAINE M. FLECK  
NICHOLAS J. CARTEL  
SENIOR CONSULTANT  
PETER W. MCBURNAY  
TECHNICAL ASSISTANTS  
KENNETH K. MA, PH.D.

Please Quote  
Our ref. 7865-266 to -277 MIS:jb

Your ref.

Writer's Direct Dial: (416) 849-8400

E-mail: [mistewart@sim-mcburney.com](mailto:mistewart@sim-mcburney.com)

March 6, 2006

Margo Osinski  
Burcon Group Limited  
1946 West Broadway  
Vancouver, British Columbia  
V6J 1Z2

Dear Margo:

**RE: New National Phase Patent Applications  
pursuant to PCT/CA2004/001433  
PROCESS FOR PREPARATION OF FLAX PROTEIN ISOLATE**

In accordance with your instructions, I have proceeded with National Phase applications in Australia, Brazil, Canada, China, Europe, Japan, South Korea, Mexico, New Zealand, South Africa, Russian Federation and United States of America. The National Phase applications are identified individually by file numbers, as follows:

Australia	7865-267	Brazil	7865-268
Canada	7865-269	China	7865-270
Europe	7865-271	Japan	7865-272
South Korea	7865-273	Mexico	7865-274
New Zealand	7865-275	South Africa	7865-266
U.S.A.	7865-276	Russian Federation	7865-277

The Canadian and US cases were filed with the same claims as the International application. I have prepared new sets of claims with respect to other jurisdictions and enclose a set of claims as filed in Australia, New Zealand and South Africa, a set of claims as filed in Europe, a set of claims as filed in Russian Federation and a set of claims as filed in Brazil, China, Japan, South Korea, Mexico.

- 2 -

I have sent the papers requiring execution by Brent Green and James Logie directly to Winnipeg Office with a copy of this letter. I have also directly forwarded documentation requiring execution by Radka Milanova with a copy of this letter.

The filing particulars for these applications will be reported to you when received. I will keep you advised of developments.

Yours very truly,  
**SIM & McBURNEY**

**By:**

M.I.Stewart/jb  
Enclosure(s)

cc: Martin Schweizer  
Radka Milanova

## EXHIBIT II (1 of 3)

PTO/SB/01 (10-05)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**DECLARATION FOR UTILITY OR  
DESIGN  
PATENT APPLICATION  
(37 CFR 1.63)**

 Declaration Submitted With Initial Filing

OR

 Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number

7865-276 MIS:jb

First Named Inventor

Brent E. Green

COMPLETE IF KNOWN

Application Number

Filing Date

Art Unit

Examiner Name

I hereby declare that:

Each inventor's residence, mailing address, and citizenship are as stated below next to their name.

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**PROCESS FOR PREPARATION OF FLAX PROTEIN ISOLATE**

(Title of the Invention)

the specification of which

 is attached hereto

OR

 was filed on (MM/DD/YYYY)

30/07/2004

as United States Application Number or PCT International

Application Number

PCT/CA2004/001433

and was amended on (MM/DD/YYYY)

(if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT International application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached? YES	Certified Copy Attached? NO
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

[Page 1 of 2]

This collection of information is required by 35 U.S.C. 116 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance completing the form, call 1-800-PTO-9199 and select option 2.

**EXHIBIT II: (2 of 3)**

PTO/SB/01 (10-05)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.**DECLARATION — Utility or Design Patent Application**

Direct all correspondence to:

 The address associated with Customer Number:

OR



Correspondence address below

**Name**

Sim &amp; McBurney

**Address**

6th Floor, 330 University Avenue

**City**

Toronto

**State**

Ontario

**ZIP**

M5G 1R7

**Country**

Canada

**Telephone**

(416) 595-1155

**Email**

mailsim@sim-mcburney.com

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**NAME OF SOLE OR FIRST INVENTOR:** A petition has been filed for this unsigned inventor

Given Name (first and middle if any)

Family Name or Surname

Brent E.

Green

Inventor's Signature

Date

Residence: City

State

Country

Citizenship

Winnipeg

Manitoba

Canada

Canadian

Mailing Address  
588 Rathgar AvenueCity  
WinnipegState  
ManitobaZip  
R3L 1G4Country  
Canada Additional inventors or legal representatives are being named on the

supplemental sheet(s) PTO/SB/02A or 02LR attached hereto.

## EXHIBIT II (3 of 3)

PTO/SB/02A (09-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>DECLARATION</b>		<b>ADDITIONAL INVENTOR(S)</b>	Page: 3 of 3
		Supplemental Sheet	

<b>Name of Additional Joint Inventor, if any:</b>		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any))		Family Name or Surname	
Radek		Milanov	
Inventor's Signature		Date	
Vancouver	British Columbia State	Canada Country	Canadian Citizenship
Residence: City 605-1749 Robson Street			
<b>Mailing Address</b>		V8G 1E1	Canada Country
Vancouver	British Columbia State	Zip	
City			
<b>Name of Additional Joint Inventor, if any:</b>		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any))		Family Name or Surname	
James		Logie	
Inventor's Signature		Date	
Winnipeg	Manitoba State	Canada Country	Canadian Citizenship
Residence: City c/o Burcon Nutrascience (MB) Corp., 1388 Waller Avenue			
<b>Mailing Address</b>		R3T 1R8	Canada Country
Winnipeg	Manitoba State	Zip	
City			
<b>Name of Additional Joint Inventor, if any:</b>		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any))		Family Name or Surname	
Inventor's Signature		Date	
State	Country	Citizenship	
Residence: City			
<b>Mailing Address</b>		Zip	Country
City	State	Zip	Country

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

**EXHIBIT III**

**Sim & McBurney**  
*Patent and Trade Mark Agents*

Please Quote  
Our ref. 7866-276 MIS:jb

Your ref.

Writer's Direct Dial: (416) 849-8400

E-mail: [mistewart@sim-mcburney.com](mailto:mistewart@sim-mcburney.com)

July 10, 2006

Radka Milanova  
605-1749 Robson Street  
Vancouver, British Columbia  
V6G 1E1.

Dear Radka:

**RE: US Patent Application No. 10/566,082**  
pursuant to PCT/CA2003/000934  
**PROCESS FOR PREPARATION OF FLAX PROTEIN ISOLATE**

Further to my letter of March 6, 2006 to Margo Osinski, a copy of which is enclosed, I do not appear to receive the executed papers and I enclose a new Declaration and Power of Attorney document for execution in the event the original one has been mislaid. We have until August 5, 2006 to file the executed Declaration, if further extension fees are to be avoided. I look forward to the return of the executed paper shortly.

Yours very truly,  
**SIM & MCBURNEY**

By:

Michael I. Stewart/jb  
Enclosure(s)

cc: Margo Osinski

330 University Avenue  
6th floor  
Toronto, Canada  
M5G 1R7  
Telephone (416) 595-1155  
Fax (416) 595-1163

MICHAEL I. STEWART  
TONI POLSON ASHTON  
JOHN H. WOODLEY  
KENNETH D. MCKAY  
TIMOTHY M. LOWMAN  
STEPHEN M. LANE  
PATRICIA A. RAE  
DAVID A. RUSTON  
LOLA A. BARTOSZEWCZ  
ANDREW R.O. JONES  
KIMBERLY A. MCMANUS

LYNDA P.S. COVELLO  
MATTHEW D. POWELL  
MARCO M. CLEMENTONI  
KENNETH M. T. MURPHY  
MARLYE MONFISTON  
ABIGAIL A. BROWNE  
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